

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

WILLIAM JEFFREY BURNETT,	)	
JOE H CAMP,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 1:18-cv-00200-JPH-DML
	)	
CONSECO LIFE INSURANCE COMPANY	)	
n/k/a Wilco Life Ins. Co,	)	
	)	
Defendant.	)	

**ORDER**

Plaintiffs and Defendant Conseco Life Insurance have filed a stipulation of dismissal with prejudice as to Plaintiffs' and Class Members' claims against Conseco Life. Dkt. 240. That stipulation is "in conjunction with" the Court's partial final judgment, which resolved the claims against Conseco Life and noted that the Court retained jurisdiction to enforce the terms of the settlement agreement. *Id.* (citing dkt. 238).

The Court's final judgment as to the claims against Conseco Life, dkt. 238, "end[ed] the litigation on the merits and leaves nothing for the district court to do but execute the judgment," *West v. Louisville Gas & Elec. Co.*, 920 F.3d 499, 503 (7th Cir. 2019). That judgment was necessarily without prejudice because the Court retained jurisdiction to enforce the terms of the settlement agreement. *See Shapo v. Engle*, 463 F.3d 641, 643 (7th Cir. 2006) ("[A] district judge cannot dismiss a suit with prejudice, thus terminating

federal jurisdiction, yet at the same time retain jurisdiction to enforce the parties' settlement that led to the dismissal with prejudice.").

Because the parties' stipulation of dismissal is inconsistent with the Court's final judgment, the Court **STRIKES** the stipulation. Dkt. [240]. If the parties wish for the Court to relinquish jurisdiction over enforcement of the terms of the settlement agreement and to dismiss the claims with prejudice, they may file a motion under Federal Rule of Civil Procedure 60(b)(5). *Cf. Komyatti v. Bayh*, 96 F.3d 955, 962 (7th Cir. 1996).

**SO ORDERED.**

Date: 2/10/2021



James Patrick Hanlon  
United States District Judge  
Southern District of Indiana

Distribution:

James H Bilton  
LOCKE LORD LLP  
jbilton@lockelord.com

Taylor F. Brinkman  
LOCKE LORD LLP  
tbrinkman@lockelord.com

Shelli L. Calland  
WEISBROD MATTEIS & COPLEY PLLC  
scalland@wmclaw.com

Saul Cohen  
WEISBROD MATTEIS & COPLEY PLLC  
scohen@wmclaw.com

Kathleen Ann DeLaney  
DELANEY & DELANEY LLC  
kathleen@delaneylaw.net

Tamra B. Ferguson  
WEISBROD MATTEIS & COPLEY PLLC  
tferguson@wmclaw.com

Barbara Louise Lyons  
Law Office of Barbara L Lyons  
80 El Camino Real Apt D  
Burlingame, CA 94010

Phillip Russell Perdew  
LOCKE LORD LLP  
pperdew@lockelord.com

Carl C. Scherz  
LOCKE LORD LLP  
cscherz@lockelord.com

T. Esther Silberstein  
WEISBROD MATTEIS & COPLEY PLLC  
esilberstein@wmclaw.com

Derek Y. Sugimura  
WEISBROD MATTEIS & COPLEY PLLC  
dsugimura@wmclaw.com

Stephen A Weisbrod  
WEISBROD MATTEIS & COPLEY PLLC  
sweisbrod@wmclaw.com